

For: County Offices

Equitable Treatment in Processing Loan Applications

Approved By: Acting State Executive Director



RAT:LEV:lv

1 Overview

A

Background

The USDA's Civil Right Action Team (CRAT) brought to light instances where it appeared that Socially Disadvantaged Applicants (SDAs) received disparate treatment. An often cited practice of disparate treatment was the untimely and different loan application time frames experienced by SDAs in relation to non-SDA applicants. In the last few years a key objective in the Administrator's Annual Civil Rights Performance Plan has been to eliminate disparate treatment of SDAs in loan processing. On May 14, 1998, the National Office issued Notice FC-188 to address this issue, and followed with the issuance of Notices FLP-50 on May 14, 1999 and FLP-186 on February 20, 2001. Oregon Notice FLP-21 was also issued to address this subject.

B

Purpose

The purpose of this Oregon Notice is to:

- emphasize the importance of timely processing of all loan applications without disparate treatment of SDA groups
- continue the review process and supplement Notice FLP-186
- designate District Directors as Review Officials for reviewing rejected direct and guaranteed SDA applications and reporting results
- provide a report form for District Directors to use in conducting, documenting, and reporting the results of their reviews quarterly.

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FILING: Preceding FmHA Instruction 1910-A and FSA Handbook 2-FLP

Disposal

Distribution

November 1, 2002

STO, DD, COR, COC, COF - Including Farm Loan Programs

03-01-01

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1 Overview, *Continued*

C

Contacts

If questions arise, District Directors should contact Lynn Voigt in the STO.

2 Designation

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Review Officials

District Directors are hereby designated as Review Officials responsible for:

- performing the duties stated in Paragraphs 2 A and 3 B of Notice FLP-186
 - ensuring all Management of Agricultural Credit (MAC) application data is current and correct in each of the County Offices in their jurisdiction, *with reasons entered when a decision has not been made within 45 calendar days of receiving a complete application*
 - ensuring all Guaranteed Loan System (GLS) application data is current and correct, *complete with reasons entered when a decision has not been made within 45 calendar days of receiving a complete application*, for each of the County Offices in their jurisdiction.
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3 Action

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County Office Action

Farm Loan Managers (FLMs), County Executive Directors (CEDs), Program Technicians, (PTs), and any other employee supporting FLP activities shall:

- process all loan applications within statutory and regulatory time frames, and do so in an effort to achieve established performance goals
 - adhere to statutory time frames and regulatory processes for notifying all applicants of additional information required for a complete application
 - notify all applicants of eligibility or ineligibility according to Agency regulations
 - ***enter a reason*** and, if necessary, an explanation *in the MAC and GLS systems when a decision has not been made within 45 calendar days of receiving a complete direct loan application*
 - use MAC as the official loan application data record for all direct and guaranteed loan applications, and faithfully maintain that data.
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3 Action, *Continued*

B

**State Office
Action**

The State Office will attempt to extract a FOCUS report from the MAC data transmitted to the Kansas City mainframe which lists all rejected applications, and extract an application report from the GLS system which lists all guaranteed loan applications not processed to a final conclusion within 45 days of a complete application. If the extraction is successful, the FLP Section will distribute these lists to District Directors and others monthly as part of both the FLP Section's monthly reports.

Note: County Offices and DDs can generate their own reports listing loan guarantee requests that are 45 days past the date of completion and without a final disposition by using the Application Reports menu, (Option 4 on the Guaranteed Loan Application Management GLS MENU). Instructions for doing so are contained in Part 7, "Application Reports," of the GLS Users Guide.

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**Review Official
Action**

As part of or in addition to the District Director Oversight Reviews described in FSA Handbook 1-FLP, District Directors shall:

- review the MAC and GLS information in each County Office as required by Section 1910.4 (i)(1)(ii)(B) of FmHA Instruction 1910-A and Subparagraphs 84 B and C of FSA Handbook 2-FLP, noting each complete application pending more than 45 calendar days

Note: The DD will immediately take steps to ensure that final disposition on any application pending more than 45 days is taken no later than 60 calendar days after receipt of the complete application.

- review the reasons and explanations shown in each County Office's MAC and GLS data describing why final disposition decisions have not been made on complete loan applications in a timely manner.
- review at least 50 percent of the rejected SDA applications in their District using the Rejected Application Review Guide attached as Exhibit 1 of this Oregon Notice. If there are fewer than 5 rejected SDA applications in the District, District Directors shall review all rejected SDA loan applicants in the District. More importantly, if any improper rejections are found, District Directors shall review all rejected SDA loan applications in that credit official's coverage area.

Note: SDA applications are those direct and guaranteed loan applications received from women or minority applicants, and entities having a majority interest owned or controlled by women or minorities.

4 Reporting

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Review Official Reporting

District Directors shall submit the following to the attention of the FLP Section in State Office immediately upon identification of any disparate treatment, or in any event, within 15 days of the end of each quarter:

- completed Rejected Application Review Guides for each rejected SDA application reviewed

Note: The District Director should comment on each item by number in an attachment, and include the specific findings and documentation of each case file reviewed

- description of any problems detected
- proposed action to be taken to correct errors on any mishandled rejected loan applications
- recommended personnel actions for the FSA employees responsible for any rejections which appear to reflect a pattern or practice of disparate treatment or discrimination against SDA applicants
- ***reasons why any decisions*** on complete loan applications ***have not be made in a timely manner***, and actions to be taken to correct the untimeliness.

B

County Office Reporting

County Offices must strictly adhere to the notification requirements and time frames set forth in Section 1910.4 (d) of FmHA Instruction 1910-A and Paragraphs 95 B and 97 of FSA Handbook 2-FLP for applicants submitting incomplete applications. Eligibility determination must be made no later than 30 days, and each application must be approved, disapproved, or withdrawn no later than 60 days, after receipt of a complete application. If a complete direct loan application is not approved or disapproved within 45 calendar days, the reporting and additional MAC data input requirements of Section 1910.4 (i)(1)(ii)(A) of FmHA Instruction 1910-A, and Subparagraphs 84 B and C of FSA Handbook 2-FLP, must be met.

MAC data is uploaded automatically to the KCMO mainframe. ***It is therefore imperative that all County Offices maintain their MAC data timely and accurately.*** The MAC information reported (or more importantly, not reported) affects the amount of FLP loan funds Oregon is allocated, and is used by the National Office in making staffing decisions.

REJECTED APPLICATION REVIEW GUIDE

Farm Loan Programs

Applicant Name _____ Program Type ☐ Direct ☐ Guaranteed
 County Office _____ District _____ Loan Type ☐ OL ☐ FO
 Credit Officer _____ Farm Loan Manager _____

Date Received _____ Date Incomp Letter _____ Date of 10 Day letter _____
 Date Complete _____ Date Elig. Determin _____ Date Final Disposition _____

Direct Application Tracking Averages or Non-ALP/Non-CLP Application Tracking Averages as of _____			
Average Processing Days	Rcvd to Complete	Complete to Disposition	Rcvd to Elig. Determin
This Application			
County Average to Date			
State Average to Date			

Timeliness and Processing Subject Areas		YES	NO	NA
1	Was an eligibility determination made within 30 days of a complete application?			
2	Was a final determination made within 60 days of a complete application?			
3	Was a final determination made within 45 days of a complete application?			
4	If Question 3 is "No," is the reason for delay accurately entered in the MAC system, and GLS system for guaranteed loans?			
5	If application was received incomplete, was applicant notified with proper series of letters following the time frames specified in FmHA Instruction 1910-A, Section 1910.4 (d)(3), or Paragraph 97 of FSA Handbook 2-FLP?			
6	If application was received incomplete, and applicant was sent both the 20 day incomplete letter and the second 10-day withdrawal letter, did the 10-day withdrawal letter contain the ECOA statement?			
7	Was this loan rejected for proper reasons, (i.e. lack of farm training, experience or education, inadequate repayment ability, inadequate security, etc.)?			
8	Was the reason for rejection specific and accurate, and was it supported with a citation to the applicable regulation?			
9	Did the Agency Official have the authority to reject the loan?			
10	Was the appropriate rejection letter specified in Oregon Notice FLP-40 used?			
11	Were the applicants properly notified of their reconsideration, mediation, and appeal rights within the time frame allowed?			

Timeliness and Processing Subject Areas		YES	NO	NA
12	For those applicants who appealed, were all the procedures set forth in FSA Handbook 1-APP followed, including the appropriate time frame?			
13	Is there evidence that the applicant was rejected and provided appeal rights, rather than being encouraged to withdraw the application, when appropriate?			
14	Was this applicant file found within a file of all rejected and withdrawn applicants maintained by the County Office?			
15	Was this application mishandled or the subject of errors in processing?			
16	If Question 3 is "No," or the processing time is significantly different than the County or State average, describe the reasons why the decision was not made within 45 days of a complete application, and the actions to be taken to correct this untimeliness.			
17	If Question 15 is "Yes," what actions are to be taken to correct the mishandling or errors in processing?			
18	Is there any appearance that this application was the subject of disparate treatment or discrimination?			
19	Is there any appearance reflecting a pattern or practice of disparate treatment or discrimination?			
Comments, findings, and responses to above questions:				

Reviewer's Signature

Date